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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Albania, Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in Myanmar

The General Assembly,

Guided by the Charter of the United Nations and the Universal Declaration of Human Rights,[1] and recalling the International Covenants on Human Rights[2] and other relevant human rights instruments,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in this field,

Reaffirming also its previous resolutions on the situation of human rights in Myanmar, the most recent of which is resolution 62/222 of 22 December 2007, those of the Commission on Human Rights and Human Rights Council resolutions S-5/1 of 2 October 2007,[3] 6/33 of 14 December 2007,[4] 7/31 of 28 March 2008[5] and 8/14 of 18 June 2008,[6]

[1] Resolution 217 A (III).

[2] Resolution 2200 A (XXI), annex.

[3] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53* (A/63/53), chap. IV.

[4] Ibid., chap. I.

[5] Ibid., chap. II.

[6] Ibid., chap. III.

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Welcoming the presidential statements adopted by the Security Council on 11 October 2007,[7]

Welcoming the reports of the Special Rapporteur on the situation of human rights in Myanmar[8] and his oral presentations, as well as the agreement by the Government of Myanmar to the visit of the Special Rapporteur, for the first time in four years, in November 2007 and then again in August 2008 soon after the appointment of the new Special Rapporteur, and encouraging the continuation of such visits, welcoming also the report of the Secretary-General[9] and his designation of a Special Adviser to continue to pursue the mandate of good offices, and affirming its full support for this mission,

Taking note of the cooperation of the Government of Myanmar with the international community, including the United Nations, in delivering humanitarian assistance to the people affected by Cyclone Nargis despite its initial denial of access, which resulted in widespread suffering and increased the risk of loss of lives, and calling upon the Government of Myanmar, in the interest of the people of Myanmar, to cooperate on humanitarian access in all other areas of the country where the United Nations, other international humanitarian organizations and their partners continue to experience difficulties in delivering assistance to persons in need,

Calling upon the Government of Myanmar to cooperate with the international community in order to achieve concrete progress in areas such as human rights and political processes leading to a genuine democratic transition through concrete measures,

Deeply concerned that the urgent calls contained in the above-mentioned resolutions, as well as the statements of other United Nations bodies concerning the situation of human rights in Myanmar, have not been met, and emphasizing that, without significant progress towards meeting these calls of the international community, the situation of human rights in Myanmar will continue to deteriorate,

1. *Strongly condemns* the ongoing systematic violations of civil, political, economic, social and cultural rights of the people of Myanmar, as described in resolution 62/222 and the previous resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council;

2. *Expresses grave concern* in particular at:

(a) The continuing practice of enforced disappearances, use of violence against peaceful demonstrators, rape and other forms of sexual violence, torture and cruel, inhumane or degrading treatment, arbitrary detentions, including those that resulted from the repression of peaceful protests in 2007, the extension, once again, of the house arrest of the General Secretary of the National League for Democracy, Aung San Suu Kyi, as well as the high and increasing number of political prisoners, including other political leaders, persons belonging to ethnic nationalities and human rights defenders, despite the recent release of a small number of them, including U Win Tin;

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[7] S/PRST/2007/37 and S/PRST/2008/13; see *Resolutions and Decisions of the Security Council, 1 August 2007-31 July 2008*.

[8] See A/63/341 and A/HRC/8/12.

[9] A/63/356.

(b) The continuing imposition of severe restrictions on the exercise of fundamental freedoms such as the freedom of movement, expression, association and assembly, in particular the lack of an independent judiciary and the use of censorship;

(c) The major and repeated violations of international humanitarian law committed against civilians;

(d) The continuing discrimination and violations suffered by persons belonging to ethnic nationalities of Myanmar, and attacks by military forces and non-State armed groups on villages in Karen State and other ethnic States in Myanmar, leading to extensive forced displacements and serious violations and other abuses of the human rights of the affected populations;

(e) The absence of effective and genuine participation of the representatives of the National League for Democracy and other political parties and some ethnic groups in a genuine process of dialogue, national reconciliation and transition to democracy; the fact that the country's political processes are not transparent, inclusive, free and fair, and that the procedures established for the drafting of the constitution resulted in the de facto exclusion of the opposition from the process; and the decision of the Government of Myanmar to proceed with the constitutional referendum in an atmosphere of intimidation and without regard to international standards of free and fair elections at a time of dire humanitarian need;

(f) Forced labour and forced displacement, as well as the continuous deterioration of the living conditions and the increase of poverty affecting a significant part of the population throughout the country, with serious consequences for the enjoyment of their economic, social and cultural rights;

(g) The climate of impunity due to the fact that perpetrators of human rights violations and abuses are not brought to justice, thereby denying the victims any effective remedy;

3. *Welcomes*:

(a) The visits to Myanmar of the Special Adviser to the Secretary-General, and expresses appreciation for the work of the good offices mission of the Secretary-General but notes only limited cooperation by the Government of Myanmar with this mission in 2008;

(b) The progress report presented by the Government of Myanmar and the steps taken so far, even though limited, in implementing the supplementary understanding between the International Labour Organization and the Government of Myanmar signed in 2007 and designed to provide a mechanism to enable victims of forced labour to seek redress;

(c) The submission by the Government of Myanmar of its third periodic report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women;

(d) The progress reported on the work conducted by the Government of Myanmar and international humanitarian entities on HIV/AIDS and avian influenza;

(e) The establishment of the Group of Friends of the Secretary-General on Myanmar, calls upon the Group to facilitate the work of the good offices mission of the Secretary-General, including by assisting with the preparation of his visits and by urging the Government of Myanmar to cooperate fully with the mission, and

encourages the Group to do its utmost to encourage the Government to respect human rights and allow a peaceful transition to democracy;

(f) The role played by countries neighbouring Myanmar and members of the Association of Southeast Asian Nations in support of the good offices mission of the Secretary-General, and encourages them to intensify their efforts in this regard;

(g) The constructive role played by the Association of Southeast Asian Nations and the United Nations in working with the Government of Myanmar to respond to the humanitarian crisis caused by Cyclone Nargis;

4. *Strongly calls upon* the Government of Myanmar:

(a) To ensure full respect for all human rights and fundamental freedoms, including by ending restrictions on these freedoms that are incompatible with the obligations of the Government under international human rights law, and to protect the inhabitants of the country;

(b) To allow a full, transparent, effective, impartial and independent investigation, primarily by the Special Rapporteur, into all reports of human rights violations, including enforced disappearances, use of violence against peaceful demonstrators, arbitrary detentions, torture and cruel, inhumane or degrading treatment, rape and other forms of sexual violence, forced labour and forced displacement, and to bring those responsible to justice in order to end impunity for violations of human rights;

(c) To reveal the whereabouts of persons who are detained or missing or who have been subjected to enforced disappearance;

(d) To seize the opportunity of the good offices of the Secretary-General and to cooperate fully with the good offices mission in the fulfilment of its responsibilities as mandated by the General Assembly, namely, the release of political prisoners and the commencement of a substantive dialogue on democratic transition; such cooperation shall include facilitating the visits of the Special Adviser to the country, allowing him unrestricted access to all relevant parties, including the highest level of leadership within the regime, human rights defenders, representatives of ethnic minorities, student leaders and other opposition groups, and engaging in a genuine and fruitful process aiming at achieving tangible progress towards democratic reform and the full respect for human rights;

(e) To fully implement previous recommendations of the Special Rapporteur, the General Assembly, the Human Rights Council, the Commission on Human Rights, the International Labour Organization and other United Nations bodies;

(f) To desist from further politically motivated arrests and to release without delay and without conditions those who have been arbitrarily arrested and detained, as well as all political prisoners, including Aung San Suu Kyi, other leaders of the National League for Democracy, 88 Generation group leaders, ethnic group leaders and all those detained as the result of the protest which took place in September 2007;

(g) To lift all restraints on the peaceful political activity of all persons by, inter alia, guaranteeing freedom of peaceful assembly and association and freedom of opinion and expression, including for free and independent media, and to ensure unhindered access to media information for the people of Myanmar;

(h) To cooperate fully with the Special Rapporteur, including by granting him full, free and unhindered access in his upcoming visits to Myanmar to monitor the implementation of Human Rights Council and General Assembly resolutions, and to ensure that no person cooperating with the Special Rapporteur or any international organization is subjected to any form of intimidation, harassment or punishment;

(i) To ensure timely, safe, full and unhindered access to all parts of Myanmar, including conflict and border areas, for the United Nations, international humanitarian organizations and their partners and to cooperate fully with those actors to ensure that humanitarian assistance is delivered to all persons in need throughout the country;

(j) To put an immediate end to the continuing recruitment and use of child soldiers in violation of international law, by all parties, to intensify measures to ensure the protection of children from armed conflict and to pursue its collaboration with the Special Representative of the Secretary-General for Children and Armed Conflict;

(k) To take urgent measures to put an end to violations of international human rights and humanitarian law, including the targeting of civilians by military operations, rape and other forms of sexual violence persistently carried out by members of the armed forces, and the targeting of persons belonging to particular ethnic groups;

(l) To end the systematic forced displacement of large numbers of persons within their country and the violence contributing to refugee flows into neighbouring countries, and to respect ceasefire agreements;

5. *Calls upon* the Government of Myanmar:

(a) To permit all political representatives and representatives of ethnic nationalities to participate fully in the political transition process without restrictions and, to that end, to resume without further delay a dialogue with all political actors, including the National League for Democracy and representatives of ethnic nationalities;

(b) To pursue, through dialogue and peaceful means, the immediate suspension and permanent end of conflict with all ethnic nationalities in Myanmar and to allow the full participation of representatives of all political parties and representatives of ethnic nationalities in an inclusive and credible process of national reconciliation, democratization and the establishment of the rule of law;

(c) To allow human rights defenders to pursue their activities unhindered and to ensure their safety, security and freedom of movement in that pursuit;

(d) To refrain from imposing restrictions on access to and flow of information from the people of Myanmar, including through the openly available and accessible use of Internet and mobile telephone services;

(e) To fulfil its obligations to restore the independence of the judiciary and due process of law, the current state of which is not in compliance with international human rights law, as well as to ensure that discipline in prisons does not amount to torture or cruel, inhuman or degrading treatment or punishment and that conditions of detention otherwise meet international standards;

(f) To engage in a dialogue with the Office of the United Nations High Commissioner for Human Rights with a view to ensuring full respect for all human rights and fundamental freedoms;

(g) To engage more actively to eliminate the use of forced labour and to increase its efforts with the International Labour Organization towards the effective implementation of the national mechanism established to receive complaints of forced labour, including allowing the International Labour Organization to distribute informational material in Myanmar on that mechanism;

(h) To resume its humanitarian dialogue with the International Committee of the Red Cross and allow it to carry out its activities according to its mandate, in particular by granting access to persons detained and to areas of internal armed conflict;

6. *Requests* the Secretary-General:

(a) To continue to provide his good offices and to pursue his discussions on the situation of human rights, the transition to democracy and the national reconciliation process with the Government and the people of Myanmar, including democracy and human rights groups and all relevant parties, and to offer technical assistance to the Government in this regard;

(b) To give all necessary assistance to enable the Special Adviser and the Special Rapporteur to discharge their mandates fully and effectively and in a coordinated manner;

(c) To report to the General Assembly at its sixty-fourth session as well as to the Human Rights Council on the progress made in the implementation of the present resolution;

7. *Decides* to continue the consideration of the question at its sixty-fourth session, on the basis of the report of the Secretary-General and the interim report of the Special Rapporteur.